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17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**
19 **OAKLAND DIVISION**

20 EPIC GAMES, INC.

Case No. 4:20-cv-05640-YGR-TSH

21 Plaintiff, Counter-defendant
22 v.

**APPLE INC.'S STATEMENT IN SUPPORT
OF ADMINISTRATIVE MOTION TO SEAL**

23 APPLE INC.,

The Honorable Thomas S. Hixson

24 Defendant, Counterclaimant

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Pursuant to Federal Rule of Civil Procedure 26(c) and Local Rule 79-5, Apple Inc. (“Apple”) submits this statement in support of Epic Games, Inc.’s Administrative Motion to Consider Whether Another Party’s Material Should Be Sealed Pursuant to Civil Local Rule 79-5 (Dkt. 1388) (“Epic’s Motion”). Apple respectfully requests that the Court partially seal Exhibit A to Epic’s Motion, because it contains information sealable under controlling law and Local Rule 79-5. Exhibit A contains excerpts from Apple’s privilege log prepared for the Special Masters conducting evaluation of the privilege claims stemming from Apple’s re-review. The privilege log entries are required to be filed under the terms of the Joint Stipulation and Order Approving Privilege Re-Review Protocol (Dkt. 1092) (the “Protocol”), but contain competitively sensitive, non-public information regarding Apple’s internal project codenames, which Apple intends to keep confidential.

Apple accordingly moves to seal portions of Exhibit A containing sealable information. Apple’s proposed redactions of Exhibit A are indicated in the redacted version filed with this statement and itemized in the concurrently filed Declaration of Mark A. Perry (the “Perry Declaration”).

LEGAL STANDARD

“The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense,” including preventing the disclosure of information. *See Fed. R. Civ. P. 26(c)*. The Court has “broad latitude” “to prevent disclosure of materials for many types of information, including, *but not limited to*, trade secrets or other confidential research, development, or confidential information.” *Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir. 2002) (emphasis in original); *see also Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (compelling circumstances exist to seal potential release of trade secrets) (citing *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)); *PQ Labs, Inc. v. Qi*, 2014 WL 4617216, at *1 (N.D. Cal. Sept. 15, 2014) (granting multiple motions to seal where publication would lead to the disclosure of trade secrets); *Apple Inc. v. Rivos, Inc.*, 2024 WL 1204115, at *1 (N.D. Cal. Mar. 21, 2024) (granting request to seal “internal product codenames” and noting that a prior request for the same had also been granted). Courts often find good cause exists to seal personally identifiable information. *See, e.g., Snapkeys, Ltd. v. Google LLC*, 2021 WL1951250, at *3 (N.D. Cal. May 14, 2021) (granting motion to file under seal personally identifiable information, including email addresses and telephone numbers

1 of current and former employees).

2 Although a party must show compelling circumstances to seal information appended to
 3 dispositive motions, the standard for non-dispositive motions is simply “good cause.” *In re Anthem, Inc.*
 4 *Data Breach Litig.*, 2018 WL 3067783, at *2 (N.D. Cal. Mar. 16, 2018); *Rembrandt Diagnostics, LP v.*
 5 *Innovacon, Inc.*, 2018 WL 1001097, at *1 (S.D. Cal. Feb. 21, 2018); *see DNA Genotek Inc. v. Spectrum*
 6 *Sols., L.L.C.*, 2023 WL 4335734, at *2 (S.D. Cal. May 10, 2023). In general, requests to seal information
 7 should be narrowly tailored “to remove from public view only the material that is protected.” *Ervine v.*
 8 *Warden*, 214 F. Supp. 3d 917, 919 (E.D. Cal. 2016); *Vineyard House, LLC v. Constellation Brands U.S.*
 9 *Ops., Inc.*, 619 F. Supp. 3d 970, 972 n.2 (N.D. Cal. 2021) (Gonzalez Rogers, J.) (granting a motion to
 10 seal “because the request is narrowly tailored and only includes confidential information”).

DISCUSSION

12 Apple seeks to seal competitively sensitive, non-public project codenames in the exhibit to Epic’s
 13 Motion. *See Perry Decl.* ¶ 5.

14 Apple’s administrative motion to seal is subject to the “good cause” standard because it concerns
 15 non-dispositive objections related to discovery. *See, e.g., Kamakana*, 447 F.3d at 1179 (“[T]he public
 16 has less of a need for access to court records attached only to non-dispositive motions because those
 17 documents are often unrelated, or only tangentially related, to the underlying cause of action.”); *Lee v.*
 18 *Great Am. Life Ins. Co.*, 2023 WL 8126850, at *2 (C.D. Cal. Nov. 13, 2023) (“Matters concerning
 19 discovery generally are considered nondispositive of the litigation” (citation omitted)); *see also In re*
 20 *Anthem, Inc. Data Breach Litig.*, 2018 WL 3067783, at *2; *Rembrandt Diagnostics, LP*, 2018
 21 WL1001097, at *1; *Al Otro Lado, Inc. v. Wolf*, 2020 WL 5422784, at *4 (S.D. Cal. Sept. 10, 2020).

22 Apple’s sealing request meets the good cause standard here. *Lamartina v. VMware, Inc.*, 2024
 23 WL 3049450, at *2 (N.D. Cal. June 17, 2024) (good cause to seal internal email communications). Apple
 24 operates in an intensely competitive environment, and thus has taken extensive measures to protect the
 25 confidentiality of its information. *See Perry Decl.* ¶ 3. Disclosure of the sealed information in Exhibit
 26 A relating to non-public confidential project codenames could harm Apple’s business interests or aid
 27 bad actor third parties in harming Apple. *Id.* ¶ 5; *see also Williams v. Apple, Inc.*, No. 19-CV-04700-
 28 LHK, 2021 WL 2476916, at *4 (N.D. Cal. June 17, 2021) (finding compelling reasons to seal internal

1 Apple business plans, projects, and trade secrets that “would provide competitors with insight that they
 2 could use to unfairly compete with Apple.”) (cleaned up)

3 Sealing is necessary here because public disclosure of this information would risk competitors
 4 gaining an unfair business advantage by benefiting from Apple’s efforts into program development and
 5 proprietary research that Apple intended to keep confidential. *See, e.g., Rodriguez v. Google LLC*, 2024
 6 WL 42537, at *2 (N.D. Cal. Jan. 3, 2024) (granting sealing of “internal terms” in documents that Google
 7 asserted contained “business information that might harm their competitive standing or become a vehicle
 8 for improper use” if public) (internal quotations omitted); *Rodriguez v. Google LLC*, 2025 WL 50425,
 9 at * 11 (N.D. Cal. Jan. 7, 2025) (finding “compelling reasons” to seal internal code names); *Apple Inc.*
 10 *v. Samsung Electronics Co., Ltd.*, 2013 WL 412864, at *2 (N.D. Cal. Feb. 1, 2013) (granting sealing
 11 motion for redactions consisting of “Apple’s confidential CAD designs and internal project code names,”
 12 finding that the request was “narrowly tailored to Apple’s proprietary information.”).

13 Apple has narrowly tailored its sealing request to include only the information necessary to
 14 protect its confidential business information. *See Krommenhock v. Post Foods, LLC*, 2020 WL 2322993,
 15 at *3 (N.D. Cal. May 11, 2020) (granting motion to seal “limited” information); *see also Phillips*, 307
 16 F.3d at 1211; *Williams v. Apple Inc.*, 2021 WL 2476916, at *2–3 (noting Apple’s narrowed sealing
 17 requests with “tailored redactions”); Dkt. No. 643 at 3 (finding Apple’s proposed redactions appropriate
 18 for an exhibit when redactions were “narrowly tailored” to “sensitive and confidential information”).
 19 Apple has only partially redacted limited information in the exhibit. *See Perry Decl.* ¶ 5.

20 For the foregoing reasons, there is good cause that warrants partially sealing Exhibit A to Epic’s
 21 Motion.

22 CONCLUSION

23 Apple respectfully requests that the Court seal the information identified in the accompanying
 24 declaration.

1 Dated: March 31, 2025

Respectfully submitted,

2 By: /s/ Mark A. Perry

3 Mark A. Perry

4 WEIL, GOTSHAL & MANGES LLP

5 Attorney for Apple Inc.

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